SUPREME COURT OF THE UNITED STATES.

No. ~~200~~. 87.

ELISHA MORRILL, PLAINTIFF IN ERROR,

vs.

ADAM HAGERMAN.

IN ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF ILLINOIS.

GOVERNMENT PRINTING OFFICE.

Pleas in the circuit court of the United States of America,
1 for the northern district of Illinois, held at the city of Chicago, in the district aforesaid, before the Hon. Thomas Drummond, district judge of said district, on Thursday, the tenth day of July, in the July term of said court, in the year of our Lord one thousand eight hundred and sixty-two, and of our independence the eighty-seventh year.

WM. H. BRADLEY, *Clerk*.

ELISHA MORRILL
vs.
ADAM HAGERMAN.

NORTHERN DISTRICT OF ILLINOIS, *ss:*

Elisha Morrill, plaintiff in this suit, who is a citizen of the State of New Hampshire, puts in his place Messrs. Williams, Grimshaw, and Williams, his attorneys, against Adam Hagerman, defendant in this suit, who is a citizen of the State of Illinois, in a plea of trespass and ejectment.

Adam Hagerman, defendant in this suit, puts in his place Messrs. Bailey and Van Vleck, his attorneys, at the suit of said plaintiff, in the plea aforesaid.

2 Be it remembered that, on the sixth day of July, in the year of our Lord one thousand eight hundred and fifty-seven, came said plaintiff by his attorneys, and filed in the office of the clerk of the circuit court of the United States of America for the northern district of Illinois, at Chicago, in said district, his declaration in ejectment against said defendant, together with a notice and bond for costs, and also an affidavit attached to said declaration, which said declaration, notice, bond, and affidavit are in the words and figures following, to wit:

UNITED STATES OF AMERICA,
Northern District of Illinois:

United States circuit court, July term, A. D. 1857.

Adam Hagerman, who is citizen of the State of Illinois, summoned to answer unto Elisha Morrill, who is citizen of the State of New Hampshire, of a plea of trespass and ejectment. For that, whereas, heretofore to wit, on the 13 day of May, in the year of our Lord one thousand eight hundred and fifty-seven, at and within the county of McDonough and State of Illinois, the said plaintiff was possessed as of his own demesne, in fee simple, of a certain
3 tract of land situate at and within the said county and State, and known as the northeast quarter of section twenty-five, (25,) in township seven (7) north, of range two (2) west; which land

exceeds in value five hundred dollars, and the said plaintiff, being then and there so possessed of said premises, he, the said defendant, thereafterwards, to wit, on the day and year aforesaid, entered into the said described premises, and from the time last aforesaid have unlawfully withheld and do now unlawfully withhold from the said plaintiff the possession of the said premises, to the damage of the said plaintiff the sum of one hundred dollars, and therefore he bring suit, &c.

WILLIAMS, GRIMSHAW & WILLIAMS,
Attorneys for Plaintiff.

To Mr. ADAM HAGERMAN:

You are hereby notified that the declaration, with a copy of which you are now herewith served, and to which this notice is subjoined, will be filed in the circuit court of the United States for the northern district of Illinois, on the first day of the July term thereof, A. D. 1857, and that upon filing the same a rule will be entered
4 requiring you to appear and plead to the said declaration within twenty days after the entry of said rule, and that if you neglect so to appear and plead, a judgment by default will be entered against you, and the plaintiff will recover possession of the premises specified in the said declaration.

Dated this 13 day of May, A. D. 1857.

WILLIAMS, GRIMSHAW & WILLIAMS,
Attorneys for Plaintiff.

UNITED STATES OF AMERICA.
District of Illinois, ss:

Circuit court, July term, A. D. 1857.

ELISHA MORRILL
vs. } In ejectment.
ADAM HAGERMAN.

I do hereby enter myself security for costs in this cause, and acknowledge myself bound to pay or cause to be paid all costs which may accrue in this action, either to the opposite party or to any of the officers of this court, in pursuance of the laws of this State.

Dated this 6th day of July, A. D. 1857.

ARCHIBALD WILLIAMS.

5 Circuit court, term, A. D. 185 .

STATE OF ILLINOIS,
McDonough county, ss:

ELISHA MORRILL
vs. } In ejectment.
ADAM HAGERMAN.

Benjamin F. Broaddus, being duly sworn, deposes and says that he did, on the 23 day of June, A. D. 1857, personally serve Adam

Hagerman, the defendant in this suit, with a true copy of the declaration hereunto annexed; and also a true copy of the notice, in writing, to the said declaration subjoined, and likewise hereunto annexed; and further this deponent saith not.

B. F. BROADDUS.

Subscribed and sworn to before me this 25 day of June, A. D. 1857.

W. T. HEAD, *Clk.* [SEAL.]

In testimony whereof, I have hereunto set my hand and the seal of said court, this 25th day of June, 1857.

W. T. HEAD, *Clk.*

Endorsed: Filed July 6th, 1857.

WM. H. BRADLEY, *Clk.*

6 On the same day, to wit, the sixth day of July, in the July term, A. D. 1857, of the said court, in the record of the proceedings thereof in said entitled cause is the following entry, to wit:

ELISHA MORRILL
vs. } Ejectment.
ADAM HAGERMAN.

Now comes the plaintiff by Messrs. Williams, Grimshaw and Williams, his attorneys, who file his declaration in ejectment against the defendant, together with a notice thereto attached; and also an affidavit of a due service of a true copy of said declaration and notice upon the defendant; and, upon their motion, it is ordered that the cause be docketed, and that the defendant be ruled to plead thereto within twenty days, or that his default be entered.

On this day, to wit, the eighth day of July, A. D. 1857, came said defendant by his attorneys, and filed in said clerk's office his plea in said entitled cause, which said plea is in the words and figures following, to wit:

UNITED STATES OF AMERICA,
Northern district of the State of Illinois, ss:

7 Of the July term of the circuit and district courts of the United States in the State of Illinois, 1857.

ELISHA MORRILL
vs. } Ejectment.
ADAM HAGERMAN.

And the said defendant comes and defends the force and injury, when, &c., and says that he is not guilty of unlawfully withholding the possession of the premises described in the said plaintiff's declaration, in manner and form as the said plaintiff hath above thereof, in his said declaration, complained against him, and of this he puts himself upon the country.

BAILEY & VAN VLECK,
D'f's Att'ys.

Endorsed: Filed July 8th, 1857.

WM. H. BRADLEY, *Clk.*

8 On this day, to wit, the tenth day of July, in the July term, A. D. 1862, of said court, in the record of the proceedings thereof in said entitled cause, is the following entry, to wit:

ELISHA MORRILL
vs.
ADAM HAGERMAN. } Ejectment.

Now come the parties, by their attorneys, and upon issue joined thereupon come a jury of good and lawful men, to wit: L. M. Blaisdell, C. C. Royce, J. D. Stevenson, Richard Harvey, D. B. Young, L. H. Bowen, John Brown, W. S. Barns, Wm. A. Little, H. M. Boggess, William H. Barry, and Andrew Gross, who were duly elected, tried, and sworn; and after hearing the evidence, and receiving instructions from the court, the jury returned into court the following verdict, to wit: We, the jury, find the defendant not guilty of unlawfully withholding from the possession of the plaintiff the real estate and premises declared on. It is thereupon considered and adjudged by the court that the defendant be discharged and go hence without day herein; and that he have and recover of the plaintiff his costs by him about his defence in this behalf expended, amounting to the sum of thirty dollars and eighty cents, and that he have an
9 execution therefor.

On the same day, to wit, the tenth day of July, A. D. 1862, the bill of exceptions was filed in said clerk's office, which said bill of exceptions is in the words and figures following, to wit:

10 ELISHA MORRILL,
vs.
ADAM HAGERMAN.

Be it remembered that on the trial of the above-entitled cause the plaintiff, to maintain the issue on his part, read in evidence to the jury:

First. A patent from the United States, granting the premises in controversy to Thomas Brown, dated October 14, 1817.

Plaintiff next offered and read in evidence to the jury a duly authenticated copy of a deed from Thomas Brown, conveying the premises in controversy unto Joseph Low, dated December 8, 1817, to the reading of which in evidence the defendant made no objection.

Plaintiff then read in evidence to the jury a deed from Joseph Low, conveying the premises in controversy to Elisha Morrill, dated October 26, 1838.

The defendant, to maintain the issue on his part, then offered and read in evidence to the jury a power of attorney from Joseph Low, Nathaniel Abbott, and John D. Abbott to Abraham Beck, dated July 14, 1820, and recorded in the proper recording office of deeds, July 21, 1821, which power of attorney, together with the various certificates thereto attached, is in the words and figures following, to wit:

Know all men by these presents that we, Joseph Low, John D. Abbott, and Nathaniel Abbott, all of Concord, county of Rockingham, and State of New Hampshire, being seized in fee of and in all

these certain lots, pieces, or parcels of land named and described in the annexed list or schedule, situate, lying, and being in the tract appropriated by acts of Congress for military bounties in the
11 State of Illinois, and which were severally granted to the persons whose names are annexed to each lot or parcel of land, have made, constituted, and appointed, and by these presents do make, constitute, and appoint Abraham Beck, of the town of St. Louis and State of Missouri, our true and lawful attorney, for us and in our names to sell and convey the whole of said described lands, and make, execute, and deliver good and sufficient warranty deeds for each and every of the aforesaid lands, and to grant and convey the same, absolutely in fee simple, for such price or sum of money, and to such person or persons as he may think fit and convenient, with such clauses, over-acts, and agreements as our said attorney shall think fit and expedient, hereby ratifying and confirming all such deeds and conveyances, bargains and sales which shall at any time be made by our said attorney touching or concerning the premises.

In witness whereof we have hereunto set our hands and seals this fourteenth day of July, 1820: provided, however, that the condition is understood to be such that our said attorney is to take sufficient security on real estate for all the above lands which may be sold on a credit.

JOSEPH LOW. [SEAL.]
NATH'L ABBOTT. [SEAL.]
JOHN D. ABBOTT. [SEAL.]

Signed, sealed, and delivered in presence of—
JOSHUA ABBOTT,
JOHN A. LOW.

STATE OF NEW HAMPSHIRE,
Rockingham, ss:

Personally appeared the within named Joseph Low, Nathaniel Abbott, and John D. Abbott; acknowledged the foregoing to be their free act and deed.

Before me, ISAAC HILL, *Justice Peace.*
Feb. 12, 1821.

12 STATE OF NEW HAMPSHIRE,
Rockingham, ss:

Be it known that on the day of the above-written instrument Isaac Hill, esquire, was a justice of the peace in and for the county of Rockingham, and that to his acts and attestations as such full faith and credit are due and to be given in and out of court, both within and out of the State.

In testimony whereof I have hereunto subscribed my
[SEAL.] name and affixed my notarial seal, at Concord, on the day of the date hereof.

JOSEPH LOW, *Notary Public.*

Samuel Stevenson, N. W. 15, 1 N., 2 W.
Walter Jackson, N. W. 19, 10 S., 2 W.
William Wood, N. W. 33, 12 N., 1 W.

David Leighton, N. W. 11, 14 N., 8 E.
John Brown, S. E. 9, 13 N., 3 E.
Elisha Smith, N. W. 15, 13 N., 9 E.
Jonas Richardson, S. W. 15, 3 N., 8 W
Antoine Shunys, S. W. 5, 4 S., 6 W.
Samuel Glines, S. W. 36, 6 N., 7 W.
Philip Himbal, S. E. 7, 6 N., 6 W.
William Haynes, N. W. 27, 6 S., 4 W.
Moses Davis, S. E. 20, 9 N., 3 W.
Dudley Trumbull, N. W. 23, 9 N., 5 W.
Reuben Hardy, S. W. 27, 3 N., 5 W.
Benjamin Abbott, S. W. 36, 11 N., 1 W.
Joseph Owen, N. W. 29, 2 N., 4 W.
James Dow, N. W. 17, 12 S., 2 W.
Josiah W. Coburn, S. E. 7, 5 N., 7 W.
Charles Harper, N. E. 15, 5 N., 8 W.
Gilbert Jones, S. E. 29, 11 N., 3 E.
Richard Silvor, S. W. 29, 6 S., 3 W.
13 Joseph Bigford, N. E. 27, 5 N., 6 W.
William Crawford, N. E. 14, 11 N., 3 W.
Royal Jackman, N. W. 17, 2 S., 4 W.
Robert Finnikan, N. E. 36, 11 N., 6 E.
Rix Danford, S. E. 11, 2 S., 4 W.
Bursiel Silvor, N. W. 36, 11 N., 6 E.
Eliphalet L. Morse, N. E. 13, 3 N., 7 W.
Fredrick Wilkins, N. W. 13, 3 N., 7 W.
Benjamin Baily, S. E. 19, 13 N., 3 W.
Jonathan Downing, S. W. 11, 4 N., 3 E.
Daniel Coffin, N. E. 6, 4 N., 2 W.
John Henderson, S. W. 7, 6 N., 6 W.
Josiah W. Coburn, jr., N. E. 11, 9 N., 4 W.
Isaac S. Bradbury, S. W. 29, 7 N., 3 W.
Thomas Brown, N. E. 25, 7 N., 2 W.
John Hoyt, S. W. 4, 3 S., 8 W.
Bullard M. Noyes, N. E. 4, 12 N., 3 E.
Joseph Piper, S. E. 14, 11 N., 4 W.
Daniel McIntyre, S. W. 23, 1 S., 5 W.
Fredrick Don, N. W. 15, 5 N., 6 W.
Joseph Pike, N. E. 30, 1 S., 4 W.
Parker More, N. E. 31, 9 N., 3 W.
James P. Batchelor, N. E. 26, 1 N., 6 W.
Ezekiel Burnham, S. W. 12, 5 N., 7 W.
Thomas D. Durgeon, S. E. 26, 3 N., 7 W.
William Rhines, N. E. 9, 1 N., 8 W.
Abner Fisher, N. E. 4, 3 N., 6 W.
Daniel Day, N. W. 9, 6 N., 5 E.
Temple H. Hoit, S. E. 11, 10 N., 6 E.
James Orkins, N. W. 17, 5 N., 3 E.
Joseph Gould, N. W. 34, 6 S., 3 W.
Thomas Worthby, S. E. 5, 1 S., 7 W.

Joseph Patch, S. E. 8, 9 N., 7 E.
14 Edmund Silas, S. E. 15, 6 N., 8 W.
Obadiah Calbery, N. E. 3, 4 N., 3 W.
Reuben Fellows, N. W. 5, 2 N., 8 W.
Benjamin Howard, N. W. 3, 3 N., 6 W.
James Goodwin, S. W. 20, 8 N., 2 W.
Rufus Orcut, S. W. 15, 6 N., 3 E.
Joseph Robey, S. E. 25, 3 N., 2 E.
John Andrews, N. W. 23, 12 N., 7 E.

Signed this 14th July, 1820.

Recorded 30th July 1821.

STATE OF ILLINOIS, PIKE COUNTY,
Recorder's Office, Pittsfield, March 2d, A. D. 1842.

I hereby certify that the foregoing instrument of writing is a true (copy) of a power of attorney from Joseph Low, Nathaniel Abbot and John D. Abbott to Abraham Beck, as appears on record in this office, in volume one, on pages 449 and 450.

SEAL.] Given under my hand and private seal, there being no official seal yet provided for said office.

JOHN J. TRIMBAUGH.
Recorder.
By P. W. O. THOMPSON, *D. R.*

Defendant then read in evidence to the jury a deed from Joseph Low, Nathaniel Abbott and John D. Abbot, by their attorney in fact, Abraham Beck to Wm. M. O'Hara, of St. Louis, Missouri, for the lands mentioned and described in the schedule attached to the foregoing power of attorney, which said deed is dated September 12th, 1820; is expressed upon its face to be for and in consideration of the sum of three thousand five hundred and thirty-four dollars to them in hand paid, the receipt whereof is hereby acknowledged, is duly acknowledged and certified, and duly recorded in the proper recording office on the 9th day of May, 1821.

15 Defendant next offered and read in evidence to the jury a power of attorney from Abram D. Harrol and Helen O'Hara Harroll, his wife, and by them duly executed under seal to John W. Westfall and Jonathan H. Baker, authorizing and empowering them as their attorney to sell and convey the land in controversy, dated December 21st, 1853.

Defendant then offered and read in evidence a deed from Abram D. Harroll, and Helen O'Hara Harroll, his wife, by John W. Westfall and Jonathan H. Baker, their attorneys in fact, conveying the premises in controversy to Adam Hagerman, dated September 1, 1854, and expressed that it was made on the consideration of two thousand dollars lawful money paid by said Hagerman to the grantors in said deed, and that said consideration money was received by said grantors.

It was admitted that at the dates of the power of attorney from Harroll and wife to Westfall & Baker, and of the deed from Harroll and wife by said attorneys to Adam Hagerman, William O'Hara was dead and that he died intestate, and that Helen O'Hara Harroll was his only heir-at-law, and that Abram D. Harroll was her husband; it was also admitted that the premises in controversy exceed in value two thousand dollars. The plaintiff then, by way of rebuttal, read in evidence to the jury the depositions of Nathaniel Sanborn, in the words and figures following, to wit:

16 Be it remembered, that on application of Elisha Morrill, the plaintiff in a suit now pending in the circuit court of the United States for the seventh circuit and northern district of Illinois, wherein Adam Hagerman is defendant, I, Geo. C. Lanpline, a U. S. commissioner in and for the northern district of Illinois, have this 25th day of June, A. D. 1860, at Knoxville in the county of Knox and State aforesaid, having given five days' notice to the said defendant's counsel, John S. Baily, proceeded to examine Nathaniel Sanborn, *de bene esse*, as a witness on behalf of the plaintiff in the aforesaid suit; and I certify that the reason for taking said deposition is, and the fact is, the said witness resides at Knoxville aforesaid, more than one hundred miles from Chicago, the place where the court in which said cause is expected to be tried is appointed by law to be held; and I do further certify that the said Nathaniel Sanborn, being by me carefully examined, cautioned, and duly sworn to testify the whole truth, says :

My name is Nathaniel Sanborn, am sixty-five years of age, and have been engaged as clerk in the different offices of the State and county for forty years or more, and reside in Knoxville, Illinois.

I was acquainted with Abraham Beck in his lifetime. I became acquainted with him in 1819, in St. Louis, Mo., and served him as clerk about three years, part of the time in St. Louis and the balance of the time in the auditor's office in this State.

His business in St. Louis consisted in buying and selling lands and paying taxes for others. I was with him at the time of his death, which occurred in St. Louis, Sept. 5th, 1821, at his boarding house. He resided during the years 1819, 1820 and 1821 in St. Louis, Mo. I was also acquainted with William M. O'Hara. I became acquainted with him in 1819, at St. Louis. He resided there at that time; his business was private banking and speculating in lands. I

17 think he left St. Louis in the spring of 1821, and moved to Little Rock, Arkansas, where, I am credibly informed, and believe, he died, some time in the spring or early in the summer of 1821. I think it was soon after he arrived at Little Rock.

While I was in the employ of said Beck I was knowing to his selling to said O'Hara, as the attorney of John D. Abbott, Nathaniel Abbott, and Joseph Lowe, a list of lands lying in the State of Illinois, in the tract of land appropriated by acts of Congress for military bounties. A deed was made by said Beck to said O'Hara, dated Sept. 12th, 1820, to which, at their request, I signed my name as a subscribing witness. As near as I can recollect, the deed conveyed between

sixty and seventy tracts or quarter sections of land. I think the consideration was upwards of $5,000, for which O'Hara gave his individual notes to said Beck, without security; no money was at the time in hand paid by said O'Hara to said Beck, nor was any money paid or security given up to the time of Beck's death. The notes remained in Beck's possession unpaid, and have never since been paid, to my knowledge.

When O'Hara left St. Louis he was owing large amounts to different citizens there, which have never been paid, and he was reported to have been insolvent at the time of his death.

After Beck's death I entered into partnership with Amos Wheeler, and we jointly took the business and occupied the office formerly occupied by said Beck, and carried on said business until Wheeler's death, which occurred about one year afterwards.

I was in said land office and connected with it up to the year 1827 from 1819. I think Beck was insolvent at the time of his death.

NATHANIEL SANBORN.

18 And I do further certify that the preceding deposition was reduced to writing by said witness, and signed by the said witness in my presence, and that I am not of counsel or attorney for either of the parties to said suit, nor am I interested in the event thereof.

[SEAL.] Witness my hand and official seal this 25th day of June, A. D. 1860.

GEO. C. LANPLINE,
U. S. Commissioner.

Fees of com'r. $2. Paid by pl'ff.
" witness, $1. "

Opened for Mr. Williams, July 17th, 1860.

WM. H. BRADLEY, *Cl'k.*

19 Plaintiff then offered and read in evidence, by agreement of parties, the deposition of Mark M. Aiken, taken in the case of Elisha Morrill *vs.* Benjamin Clark, in the words and figures following, to wit:

My name is Mark M. Aiken. I reside in Peoria, Illinois, and have resided there since October, 1833. I am fifty-two years of age. I am well acquainted with the plaintiff and defendant in this suit. I have been acquainted with the plaintiff upwards of forty years. I have known said defendant since 1836 or 1837. He then resided in Rushville, Schuyler county, State of Illinois.

I know that said plaintiff purchased a list of lands in Illinois, military bounty tract of John D. Abbott, Nathaniel Abbott and Joseph Low. There were about sixty-two quarter of sections. The purchase was about the fifth day of May, I think, and at subsequent times in said year; the deeds for said purchases were recorded in the proper offices soon after their dates.

The plaintiff has always been attentive to the looking after the said lands, visiting the several counties, or most of them, every year, and sometimes twice a year; also attended tax sales, to prevent any one getting any tax title on them; particularly, as his competitor was Benjamin Clark.

Plaintiff then read in evidence a tax receipt, showing that he paid the taxes on the land in controversy for the year 1839, and other tax receipts; showing that he had paid taxes for the years 1839, 1855, and 1856, on other lands described in the deed executed by Abraham Beck as attorney in fact of Joseph Low, Nathaniel Abbott and John D. Abbott, to Wm. M. O'Hara.

20 Plaintiff then, by agreement of parties, offered and read in evidence to the jury the statement of Seth C. Sherman, in words and figures following to wit:

Seth C. Sherman, being sworn, says:

That he was one of the firm of Moore, Morton & Co., land agents, who formerly did business at Quincy, Illinois; that said firm or partnership was formed in the year 1835, and continued till March, 1858, and consisted of Francis C. Moore, Lloyd Morton and Seth C. Sherman.

That said firm, in their capacity as land agents, were employed by Elisha Morrill, of Concord, New Hampshire, to take charge of and look after his interest in a large number of tracts of land claimed to be owned by him, situated in the military bounty land district, in the State of Illinois; that they were requested and instructed by said Morrill, in 1844, and at various times afterwards, to pay taxes on the lands claimed by him, to buy them for him, when offered at tax sales, to examine their situation and ascertain their value, to make sales and effect compromises with conflicting claimants, and generally to do whatever said firm might think necessary to protect and promote his interest in the lands claimed by him; that said firm were furnished from time to time by said Morrill with the funds necessary to carry out his instructions; and that they did, as I believe, comply with his instructions to the best of their ability; that the following described lots are a portion of the lands put in the charge of said firm by said Morrill, viz:

S. E. 14, 2 S., 5 W.; S. W. 7, 6 N., 6 W.
N. E. 20, 1 S., 7 W.; N. W. 17., 1 N., 7 W.
N. W. 15., 1 N., 2 W.; N. E. 13., 3 N., 7 W.
S. W. 36., 11 N., 1 W.; N. W. 13., 3 N., 7 W.
21 N. E. 25, 7 N., 2 W.; S. E. 26, 3 N., 7 W.
N. E. 36, 7 N., 2 W.; N. W. 32, 2 N., 7 W.
S. W. 29, 7 N., 3 W.; S. E. 7, 5 N., 7 W.
N. E. 4, 3 N., 6 W.; S. W. 12., 5 N., 7 W.
N. W. 12, 3 N., 6 W.; N. E. 15, 5 N. 8 W.
S. E. 2, 4 N., 6 W.; S. E. 15, 6 N., 8 W.
N. W. 15, 5 N., 6 W.; N. W. 11, 14 N., 8 E.
N. E. 27, 5 N., 6 W.

That of the lands claimed by said Morrill, and put under the care of said firm, some were conveyed to him, as I am informed and believe, by Nathaniel Abbott, some by John D. Abbott, and some by Joseph L. Low; what particular lots were conveyed by either of said persons I cannot say, from recollection.

Seth C. Sherman also says that the firm of Moore, Morton & Co. was dissolved in March, 1858; that Francis C. Moore and Seth C. Sherman have continued the business conducted by said firm, and have acted as the agents of said Elisha Morrill from March, 1858, to this date.

SETH C. SHERMAN.

The depositions of Nathaniel Sanborn and Mark M. Aiken, the tax receipts and statement of Seth C. Sherman, were each offered and read in evidence, subject to the objections of the defendant for irrelevancy, and as being in part hearsay, rumor and opinions of the witness, but were to be considered as properly taken in this case, subject to those objections only.

This was all the evidence in the case.

22 This being all the evidence in the case, and the court being of the opinion that the defendant, Adam Hagerman, had shown a good and valid title in himself to the premises in controversy, superior and paramount to the title of the plaintiff, so instructed the jury. To which instruction the plaintiff, by his attorney, at the time the same was given excepted; and now prays that this his bill of exceptions may be signed and sealed, and made a part of the record, which is done accordingly.

THOMAS DRUMMOND. [SEAL.]

Endorsed: Filed July 10th, 1862.

WM. H. BRADLEY, *Clk.*

23 On this day, to wit, the twenty-fifth day of September, A. D. 1862, a writ of error issued out of said clerk's office in said entitled cause, which said writ of error is in the words and figures following, to wit:

UNITED STATES OF AMERICA,
Northern District of Illinois, ss:

The United States of America to the judges of the circuit court of the United States for the northern district of Illinois, greeting:

Because in the record and proceedings, as also in the rendition of a judgment, in a plea which is in the said court before you between Elisha Morrill and Adam Hagerman, wherein Elisha Morrill is the plaintiff and Adam Hagerman is the defendant, a manifest error hath happened, to the great damage of the said Elisha Morrill, as by his complaint appears, and it being fit that the error, if any there hath been, should be duly corrected, and full and speedy justice done to the party aforesaid in this behalf, you are hereby commanded, if judg-

ment be therein given, that then, under your seal, distinctly and openly you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington on the first Monday of December next, , in the said
Supreme Court to be then and there held, that the record and
24 proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error, what of right and according to the law and custom of the United States should be done.

[SEAL.] Witness the Hon. Roger B. Taney, chief justice of the Supreme Court of the United States, this twenty-fifth day of September, in the year of our Lord one thousand eight hundred and sixty-two, and of our independence the 87th year.

WM. H. BRADLEY, *Clk.*

Endorsed: Filed Sept. 25th, 1862.

WM. H. BRADLEY, *Clk.*

On the same day, to wit, the twenty-fifth day of September, A. D. 1862, came said plaintiff and filed in said clerk's office his appeal bond in said entitled cause, which said bond is in the words and figures following, to wit:

ELISHA MORRILL *vs.* ADAM HAGERMAN. } In error to the circuit court of the United States for the northern district of Illinois, July term, 1862.

Know all men by these presents that we, Jackson Grimshaw and John H. Williams, of the city of Quincy, county of Adams and State of Illinois, are held and firmly bound unto the above-named
25 Adam Hagerman in the sum of three hundred dollars, to be paid to the said Adam Hagerman, his executors or administrators, to which payment well and truly to be made we bind ourselves, and each of us, jointly and severally, and our, and each of our, heirs, executors and administrators, firmly by these presents, sealed with our seals and dated this 23d day of September, 1862.

Whereas the above named Elisha Morrill has prosecuted a writ of error to the Supreme Court of the United States to reverse the judgment rendered in the above-entitled cause made in favor of said Adam Hagerman by the said circuit court, now, therefore, the condition of this obligation is such, that if the above-named Elisha Morrill shall prosecute his said writ of error to effect, and answer all costs if he shall fail to make good his plea, then this obligation shall be void; otherwise, the same shall be and remain in full force and virtue.

JACKSON GRIMSHAW. [SEAL.]
JOHN H. WILLIAMS. [SEAL.]

Approved.

THOMAS DRUMMOND.

Endorsed: Filed Sept. 25th, 1862.

WM. H. BRADLEY, *Clk.*

26 The citation in said entitled cause is in the words and figures following, to wit:

UNITED STATES OF AMERICA, *ss:*

To Adam Hagerman, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States to be holden at Washington on the first Monday of December next, pursuant to a writ of error filed in the clerk's office of the United States for the northern district of Illinois, wherein Elisha Morrill is the plaintiff and you are the defendant in error, to show cause, if any there be, why the judgment in the said writ of error mentioned should not be corrected, and speedy justice should not be done to the parties in that behalf.

Witness the Hon. Thomas Drummond, one of the justices of said court, this twenty-fifth day of September, A. D. 1862.

THOMAS DRUMMOND.

I hereby acknowledge due service on me of a copy of the within notice this 27th day of September, A. D. 1862.

J. S. BAILEY,
Att'y for def't in error.

27 NORTHERN DISTRICT OF ILLINOIS, *ss:*

I, William H. Bradley, clerk of the circuit court of the United States within and for said northern district of Illinois, do hereby certify the foregoing to be a true and correct transcript from the record of all the proceedings had in said court in said cause of Elisha Morrill against Adam Hagerman, as the same remain in my custody.

In testimony whereof, I have hereunto set my hand and affixed the [SEAL.] seal of said court at my office in Chicago, in said northern district, this twenty-fifth day of November, A. D. 1862.

WM. H. BRADLEY, *Clerk.*

28 ELISHA MORRILL, plaintiff in error, } Error to circuit court of the United States in and for the northern district of Illinois.
vs.
ADAM HAGERMAN, defendant in error. }

Said plaintiff in error says that in the foregoing record and proceedings there is manifest error in this, to wit:

First. The court erred in charging and instructing the jury that the defendant Hagerman had shown a good and valid title in himself to the premises in controversy, superior and paramount to the title of plaintiff, Elisha Morrill, the present plaintiff in error.

Wherefore, and for divers other errors apparent in said record, said plaintiff in error prays that the aforesaid judgment of the circuit court aforesaid be reversed, and wholly for nothing esteemed.

29 JACKSON GRIMSHAW,
Attorney for Elisha Morrill, plaintiff in error.

Filed December 9, 1862.